

 <div style="text-align: center;"> <b>STATE OF ALASKA</b>  <b>DEPARTMENT OF TRANSPORTATION</b>  <b>AND PUBLIC FACILITIES</b> </div> <div style="text-align: center; font-size: 1.5em; font-weight: bold;">Policy and Procedure</div>		POLICY AND PROCEDURE NUMBER <div style="text-align: center; font-weight: bold;">10.01.040</div>	PAGE <div style="text-align: center;">1 of 11</div>
		EFFECTIVE DATE <div style="text-align: center;">August 28, 1998</div>	
SUBJECT <div style="text-align: center; font-weight: bold;">Alternate Procurements</div>		SUPERSEDES	DATED
TITLE <div style="text-align: center; font-weight: bold;">Procurement and Property</div>	CHAPTER <div style="text-align: center; font-weight: bold;">General Procurement</div>	APPROVED BY	

## PURPOSE AND SCOPE

To establish uniform procedures for department personnel to follow when using alternate procurement methods for construction, commodities, services, and professional services.

Department procurement actions shall be accomplished in compliance with the State Procurement Code (AS 36.30); the Alaska Administrative Code (2 AAC 12); the State Administrative Manual; the Department's Delegation of Authority from the Department of Administration; and the department's policies and procedures relating to procurement and contracting. Reference DPOL 10.01.010.

## DISTRIBUTION

All holders of the Department of Transportation & Public Facilities Procedures Manual.

## PROCEDURE

### A. Alternate Procurement Methods

1. Forms. The requester shall prepare the appropriate form and submit it for review and approval.
  - a. The DOT&PF "Waiver Request for Procurement" (Waiver) form (25D-026), most recent version, shall be submitted for all procurements made under DOT&PF statutory authority (Construction, State Equipment Fleet, and Maintenance of the Alaska Marine Highway System) and procurements made under authority delegated from the Department of Administration not exceeding the limit for Small Procurements.
  - b. The Department of Administration (DOA) "Request for Alternate Procurement" (RAP) form (02-100), most recent version, shall be submitted for procurements

made under the Delegation of Authority from the Department of Administration which exceed the limit for Small Procurements. A copy of the Form can be found in the State Administrative Manual in the section titled "Procurement Forms."

## 2. Emergency Procurements

Procurements may be made under emergency conditions when there exists a threat to public health, welfare, or safety; when a situation exists that makes a procurement through competitive sealed bidding or competitive sealed proposals impracticable or contrary to the public interest; or to protect public or private property.

- a. An Emergency Procurement shall be made with competition that is practicable under the circumstances.
- b. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement file. The written determination must include findings of fact that support the determination. Written determinations shall set out the basis of the emergency and why it is impractical or contrary to the public interest to circulate a competitive sealed bid or competitive sealed proposal.
- c. Persons making Emergency Procurements shall obtain competitive prices whenever possible, and award to the lowest responsible bidder or offeror. All provisions of the laws, regulations, and procedures shall be adhered to as far as practical in making Emergency Procurements. It is the responsibility of each individual employee to exercise discretion in making such procurements. Each employee shall be held responsible for any abuses of the required procurement procedures.
- d. Only those supplies, services, or professional services required to relieve the emergency situation noted in the "determination" shall be procured under Emergency Procurement procedures. Emergency Procurements shall be limited to the procurement of the minimum level of supplies, services, or professional services necessary to correct the emergency situation. For example, if a sewer line in a major facility springs a leak and it is declared an emergency, procurements shall be limited to repairing the damaged portion to resolve the emergency situation. Emergency Procurement procedures shall not be used to replace the entire sewer line.
- e. Emergency Procurements do not require confirmation by a written order. However, a copy of the written determination of emergency must accompany the invoice when it is submitted for payment. Emergency Procurements must always be fully evaluated prior to taking purchasing action. The Regional and Statewide Procurement Offices are available to assist in locating the required items.

## 3. Single Source Procurements

- a. A Single Source Procurement is the restriction of the purchase of supplies, services, or professional services to one potential vendor or contractor because no other

source is suitable or acceptable to meet the need. Single Source Procurement may be awarded when:

- 1) It is not practicable to award a contract by competitive sealed bidding, competitive sealed proposals, limited competition, or small procurement procedures; and
  - 2) Award of the contract is in the state's best interest. Requests must cite the specific and significant interests that justify not using a competitive method. For definition of "in the state's best interest," see Definitions, page 12, DPDR 10.01.011.
- b. A written determination that includes findings of fact that support the determination is required prior to making a Single Source Procurement.
- 1) This determination must include evidence consisting of material facts sufficient for independent examination and verification.
  - 2) The determination should be structured as follows:

*"It is not practicable to award a contract by a competitive process because ....."* (Cite the specific reasons why a competitive process is not practicable)

*Awarding a contract as a Single Source is in the state's best interest because ....."* (Cite the specific and significant interests which justify not using a competitive process)

*Per AS 36.30.300 and 2 AAC 12.410 we are requesting a Single Source determination to establish the aforesaid contract."*
  - 3) The determination must specify the duration of its effectiveness.
- c. Public advertisement of the intent to make a Single Source Procurement may be used to determine if such an award is appropriate.
- d. The procurement officer shall negotiate with the Single Source supplier to the extent practicable as to price, delivery, and terms.
- e. Procurement requirements may not be aggregated or structured so as to constitute a Single Source Procurement or to circumvent the source selection procedures of AS 36.30.100 - 36.30.270 (Competitive Sealed Bids and Competitive Sealed Proposals).

#### 4. Limited Competition Procurements

- a. A Limited Competition Procurement is one in which the procurement is restricted to two or more potential contractors or when competitive sealed bid or competitive sealed proposal processes are impractical or contrary to the public interest.
  - 1) This situation can arise when there are only a limited number of firms that can supply the supplies, services, or professional services required.
  - 2) This situation can also arise when the use of a competitive sealed bid, competitive sealed proposal, or small procurement procedures, as applicable, is impractical or contrary to the public interest because of legitimate operational requirements.
- b. A written determination that includes findings of fact that support the determination is required prior to making a Limited Competition procurement. The format for the determination should be the same as that discussed under Single Source Procurements.
  - 1) This determination must include evidence consisting of material facts sufficient for independent examination and verification.
  - 2) Public advertisement of the intent to make a Limited Competition procurement may be used to determine if such an award is appropriate.
- c. Procurement requirements may not be artificially divided, fragmented, aggregated, or structured so as to constitute a Limited Competition Procurement or to circumvent the source selection procedures required by AS 36.30.100 - 36.30.270 (Competitive Sealed Bids and Competitive Sealed Proposals).
- d. Single Source Procurements may not be made using Limited Competition procedures.
- e. Contracts for construction exceeding \$100,000.00 may not be made using Limited Competition Procurement procedures.
- f. The procurement officer shall solicit competitive offers or conduct negotiations, as appropriate, as to price, delivery, and terms, equally with each potential contractor.

## B. Procedures And Routing

### 1. Emergency Procurements

- a. When Action is required within 72 hours. The procurement officer or the agency official responsible shall make a written determination of emergency, stating in detail the factual basis for a finding of emergency. Immediately upon completion of the procurement, the written determination, along with copies of invoices, shall be forwarded to:

- 1) Construction related procurements - Chief Contracts Officer (through the Regional Contracting Office).
  - 2) Non-construction related procurements - Statewide Procurement (through the Regional Procurement Office).
  - 3) SEF related procurements - Statewide Procurement (through HQ SEF).
- b. When action is not required in less than 72 hours.
- 1) A Waiver or RAP, which includes a written determination of emergency, stating in detail the factual basis for a finding of emergency, shall be submitted for review and recommendation to:
    - a) The Regional Contracting Office for construction related procurements.
    - b) The Regional Procurement Office for non-construction related procurements. The Waiver or RAP shall be accompanied by a Stock Request.
    - c) The SEF Headquarters Procurement Office for SEF related procurements. The Waiver or RAP shall be accompanied by a Stock Request.
  - 2) Upon receipt of the Waiver or RAP, the reviewing office shall prepare a recommendation. If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded for approval. Otherwise it shall be returned to the requester for further justification.

## 2. Single Source & Limited Competition Procurements

- a. Waivers or RAPs for Single Source and Limited Competition Procurements shall be submitted for review and recommendation to:
  - 1) The Regional Contracting Office for construction related procurements.
  - 2) The Regional Procurement Office for non-construction related procurements. The Waiver or RAP shall be accompanied by a Stock Request.
  - 3) The SEF Headquarters Procurement Office for SEF related procurements. The Waiver or RAP shall be accompanied by a Stock Request.
- b. The Waiver or RAP must include the required written determination, including evidence consisting of material facts sufficient for independent examination and evaluation.
- c. Upon receipt of the Waiver or RAP, the reviewing office shall prepare a recommendation. If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded for approval. Otherwise it shall be returned to the requester for further justification.

### 3. Approval Authorities

*NOTE: ALSO SEE "APPROVAL MATRIX" ON PAGES 12 and 13.*

#### a. Waivers or RAPs Within the Limits for Small Procurements:

##### 1) *Divisions under the Regional Director.*

- a) Waivers or RAPs from divisions under the Regional Director that do not exceed the limits for Small Procurements (EXCEPT EMERGENCIES) can be approved by the Regional Director.
- b) Upon receipt of the Waiver or RAP, the reviewing office shall prepare a recommendation.
  - 1)) If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded to the Regional Director for approval. Otherwise it shall be returned to the requester for further justification.
  - 2)) If approved, the Waiver or RAP shall be returned to the reviewing office, who shall effect the procurement. If not approved, the Waiver or RAP shall be returned to the requester (through the reviewing office).

##### 2) *Headquarters Divisions.*

- a) All Small Procurement Waivers or RAPs which do not exceed the limits for Small Procurements (EXCEPT EMERGENCIES) for Headquarters divisions (Statewide Aviation, Statewide Planning, Headquarters Materials, Statewide Research, Engineering Services, Finance, Personnel, and Measurement Standards) must be approved by a Deputy Commissioner. The reviewing office shall send these Waivers or RAPs to the Chief Contracts Officer.
- b) Upon receipt of the Waiver or RAP, the Chief Contracts Officer or Department Supply Chief shall prepare a recommendation.
  - 1)) If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded to the appropriate Deputy Commissioner for approval. Otherwise it shall be returned to the requester for further justification.
  - 2)) If approved, the Waiver or RAP shall be returned the reviewing office, which shall effect the procurement. If not approved, the Waiver or RAP shall be returned to the requester (through the regional reviewing office).

#### b. Waivers or RAPs Exceeding Limits for Small Procurements and ALL Emergency Procurements for which action does not have to be taken within 72 hours.

1) *Divisions under the Regional Director.*

- a) If approved by the Regional Director, the reviewing office shall send these Waivers or RAPs to the Chief Contracts Officer.
- b) Upon receipt of the Waiver or RAP, the Chief Contracts Officer shall prepare a recommendation.
- 3)) If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded for final approval to:
  - (i) The commisioner, DOT/PF, for construction; or,
  - (ii) The Chief Procurement Officer (DOA) for non-construction.

Otherwise, it shall be returned to the requester for further justification.

- 4)) If approved, the Waiver or RAP shall be returned through channels to the regional reviewing office, which shall effect the purchase. If not approved, the Waiver or RAP shall be returned to the requester (through the regional reviewing office).

2) *Headquarters Divisions.*

- a) All Waivers or RAPs for Headquarters divisions (Statewide Aviation, Statewide Planning, Headquarters Materials, Statewide Research, Engineering Services, Finance, Personnel, and Measurement Standards) must be initially approved by a Deputy Commissioner. These Waivers or RAPs are to be sent directly to the Chief Contracts Officer by the reviewing office.
- b) Upon receipt of the Waiver or RAP, the Chief Contracts Officer or the Department Supply Chief shall prepare a recommendation.
- 5)) If the recommendation substantiates the documentation provided by the requester, the Waiver or RAP shall be forwarded for final approval to:
  - (i) The commisioner, DOT/PF, for construction; or,
  - (ii) The Chief Procurement Officer (DOA) for non-construction.

Otherwise, it shall be returned to the requester for further justification.

- 6)) If approved, the Waiver or RAP shall be returned through channels to the regional reviewing office, which shall effect the purchase. If not approved, the Waiver or RAP shall be returned to the requester (through the regional reviewing office).

## C. Records And Reporting

### 1. Records.

- a. A record of all Alternate Procurements shall be maintained in the procurement file.
- b. The record shall contain the written determination, copies of all purchasing documents, copies of all quotations or informal proposals received, and a completed Procurement Report.
  - 1) This report shall contain the vendor or contractor's name, the amount and type of the contract, and a listing of the supplies or services procured under the contract.
  - 2) When the DOT Waiver Form (25D-026), is used, Part 6 of the form constitutes this report. When the DOA RAP Form (02-100) is used, use the DOA Procurement Report Form (02-115).

### 2. Reporting.

- a. All Alternate Procurements require the submission of a Procurement Report with a copy of the procurement records to the Chief Contracts Officer. These reports shall be submitted within five days after completion of the procurement. Submission of the reports shall be the responsibility of the regional reviewing office.
- b. Reports shall be submitted on **ALL** of the following Alternate Procurements:
  - 1) **ALL** Single Source Procurements
  - 2) **ALL** Limited Competition Procurements
  - 3) **ALL** Emergency Procurements

## D. False Statements In Determinations For Alternate Procurement Methods

Per AS 36.30.315. FALSE STATEMENTS IN DETERMINATIONS; CRIMINAL PENALTIES: In a determination made by a state official under AS 36.30.300 - 36.30.310 (Emergency, Single Source, and Limited Competition), the state official making the determination shall independently examine the material facts of the procurement and independently determine whether the procurement is eligible for the procurement method requested. If a state official knowingly makes a false statement in a determination made under AS 36.30.300 - 36.30.310, the state official is guilty of a class A misdemeanor.

## E. Violations

Violations of procurement statutes, regulations, the State Administrative Manual, or the terms set forth above may be cause for revocation of purchasing authority, disciplinary action up to and including dismissal, and/or prosecution under AS 36.30.315.



## **Waiver & RAP Review, Routing and Approval Matrix**

**Keywords:** CCO = Chief Contracts Officer (DOT/PF)  
 COM = Commissioner (DOT/PF)  
 CPO = Chief Procurement Officer (DOA)  
 DSC = Department Supply Chief (DOT/PF)  
 RDO = Regional Director's Office  
 SEF = SEF Headquarters  
 RCO = Regional Contracts Office  
 RPO = Regional Procurement Office

< = Less Than

> = More than

### **Single Source & Limited Competition**

<b><u>Type</u></b>	<b><u>Construction</u></b>	<b><u>User</u></b>	<b><u>Limit</u></b>	<b><u>Reviewing Office</u></b>	<b><u>Submit RAP to:</u></b>	<b><u>RAP Approved by</u></b>	<b><u>Procurement Report To:</u></b>
Commodities & Services	Yes	HQ Units	ALL	RCO	CCO	COM	CCO
Commodities & Services	Yes	Regions	<\$100,000	RCO	RDO	RDO	CCO
Commodities & Services	Yes	Regions	>\$100,000	RCO	CCO	COM	CCO
Professional Services	Yes	HQ Units	ALL	RCO	CCO	COM	CCO
Professional Services	Yes	Regions	<\$100,000	RCO	RDO	RDO	CCO
Professional Services	Yes	Regions	>\$100,000	RCO	CCO	COM	CCO
Commodities & Services	No	HQ units	<\$50,000	RPO	CCO	COM	DSC
Commodities & Services	No	HQ units	>\$50,000	RPO	CCO	CPO	DSC
Commodities & Services	No	Regions	<\$50,000	RPO	RDO	RDO	DSC
Commodities & Services	No	Regions	>\$50,000	RPO	CCO	COM & CPO	DSC
Professional Services	No	HQ Units	<\$50,000	RPO	CCO	CPO	DSC
Professional Services	No	HQ Units	>\$50,000	RPO	CCO	CPO	DSC
Professional Services	No	Regions	<\$50,000	RPO	RDO	RDO	DSC

Professional Services	No	Regions	>\$50,000	RPO	CCO	COM & CPO	DSC
Vehicles, Heavy Equip & Parts	No	SEF	<\$50,000	SEF	RDO	RDO	DSC
Vehicles, Heavy Equip & Parts	No	SEF	>\$50,000	SEF	CCO	COM	DSC

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 RDO = Regional Director's Office  
 SEF = SEF Headquarters  
 RCO = Regional Contracts Office  
 RPO = Regional Procurement Office

< = Less Than

> = More than

### **Emergency**

<u><b>Type</b></u>	<u><b>Construction</b></u>	<u><b>User</b></u>	<u><b>Limit</b></u>	<u><b>Reviewing Office</b></u>	<u><b>Submit</b></u>
<u><b>RAP to:</b></u>	<u><b>RAP Approved by</b></u>		<u><b>Procurement Report To:</b></u>		
Commodities & Services	Yes COM	HQ units CCO	ALL	RCO	CCO
Commodities & Services	Yes COM	Regions CCO	ALL	RCO	CCO
Professional Services	Yes COM	HQ Units CCO	ALL	RCO	CCO
Professional Services	Yes COM	Regions CCO	ALL	RCO	CCO
Commodities & Services	No COM & CPO	HQ units DSC	ALL	RPO	CCO
Commodities & Services	No COM & CPO	Regions DSC	ALL	RPO	CCO
Professional Services	No COM & CPO	HQ Units DSC	ALL	RPO	CCO
Professional Services	No COM & CPO	Regions DSC	ALL	RPO	CCO
Vehicles, Heavy Equipment & Parts	No COM	SEF DSC	ALL	SEF	CCO